IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1908 OF 2006

M/s.Sonell Clocks & Gifts Ltd..... Petitioner.

Versus

Union of India & Anr... ..... Respondents.

Mr. A.M.Sarogi with Mr. P.Ashar for the Petitioner.

Mr. S.M.Shah with Ms.Kiran Khandpise for Respondents.

CORAM : V.G. PALSHIKAR, and
V.R.KINGAONKAR, JJ.

DATED : 26TH APRIL, 2006.

P.C.:

By this petition, the Petitioner has challenged the order of 26th December, 2005 whereby the Appeal of the Petitioner was rejected for nonfulfillment of export obligations and for non-deposit of predeposit of penalty.

2. The contention of the Petitioner is that it could not appear for hearing because Managing Director of the Company expired on 18th December, 2005 and the money could not be deposited as the Company was in

losses. The prayer, therefore, is that the Petitioner should be allowed to go back before the appellate authority for fulfilment of those conditions of predeposit. This contention is opposed on behalf of the Union of India and it is pointed out that not appearing, inspite of grant of opportunity, is the habit of the Petitioner Company for which reliance is placed on observation in para 7 of the original order. In our opinion, there is no illegality committed by the appellate authority by passing order of 26th December, 2005. Adequate opportunity was granted to the Petitioner, yet the statutory requirement was not completed. Hence, the appeal came to be dismissed. In such circumstances, we see no reason to interfere.

3. Apart from this the Petitioner shall be at liberty to take such proceedings as it deems fit in this regard.

4. This petition is, accordingly, rejected.

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